

Islamic Inheritance Law (*Faraid*) and Its Economic Implication

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Abstract

Objective - This paper attempts to discuss the Islamic law of inheritance (*Faraid*), its existence and its systematic impact to humankind. *Faraid* plays a fundamental role as an impetus behind the development of science, which has a great economic impact to the development of social welfare. This paper aims to increase the awareness towards the importance of Islamic law of Inheritance for knowledge development, and social prosperity of humankind. Secondly, to reveal the *hikmah* behind the rules set in *Faraid* and their economic implications. Thirdly is to emerge the consciousness for being *Sharia'* compliance by revealing the secret behind His rules and its benefit for humankind.

Method - Employing a qualitative method and literature review

Result - This paper shows that from the macroeconomic perspective, *Faraid* systematically ensures the redistribution of wealth, and spreads the concentration of wealth in every generation. Literature reviews and information collected are employed in order to analyze and make further inferences. The literature review clarifies the magnificence of *Faraid* and its real contribution to human development; in economics and in other disciplines. *Faraid* keeps the justice in wealth distribution, protects property rights, empowers women to be involved in economic activities and as a whole, *Faraid* also encourages economic growth.

Conclusion - Conclusively, by commissioning *Faraid*, the wealth is generated and returned to the factors production through many hands of who deserve it after the absence of deceased.

Keywords : Islamic Inheritance Law; *Faraid*; Property Rights; Distribution of Wealth

Abstrak

Tujuan – Tulisan ini bertujuan untuk membahas lebih lanjut tentang keutamaan dan manfaat penerapan hukum waris dalam Islam (*Faraid*) terhadap ummat. *Faraid* turut memainkan peranan yang penting terhadap perkembangan ilmu pengetahuan manusia yang kemudian membawa dampak positif terhadap ekonomi dan kesejahteraan social. Paper ini juga bertujuan untuk meningkatkan kesadaran ummat akan pentingnya *Faraid* untuk perkembangan ilmu dan kesejahteraan ummat. Selain itu, paper ini bertujuan untuk mengungkap hikmah dibalik hukum *Faraid* dan implikasinya terhadap perekonomian. Terakhir, paper ini bertujuan untuk memantik kesadaran ummat untuk senantiasa patuh terhadap Shari'ah dengan mengungkapkan hikmah dan manfaat dibalik hukum Allah swt kepada ummat manusia.

Metode – Menggunakan metode kualitatif dan tinjauan literature

Hasil – Dipandang dari sudut ekonomi makro, *Faraid* secara sistematis memastikan redistribusi kekayaan dengan mendistribusikan kekayaan pada setiap generasi. Tinjauan literatur dan informasi yang dikumpulkan digunakan untuk menganalisis dan membuat kesimpulan. Tinjauan literatur menjelaskan keutamaan *Faraid* dan kontribusi nyata terhadap kemajuan manusia dibidang ekonomi serta disiplin lainnya. *Faraid* berfungsi menjaga keadilan dalam distribusi kekayaan, melindungi hak milik, memberdayakan perempuan sehingga bisa turut berpartisipasi dalam kegiatan ekonomi dan secara keseluruhan juga berhasil ditunjukkan *Faraid* juga mendorong pertumbuhan ekonomi.

Kesimpulan - Dengan memfungsikan *Faraid*, kekayaan yang dihasilkan oleh almarhum, akan dikembalikan kepada factor-faktor produksi melalui para ahli waris setelah kematian almarhum.

Kata Kunci : Islamic Inheritance Law; *Faraid*; Property Rights; Distribution of Wealth

1. Introduction

Islamic inheritance law (*Fara'id*) is an integral part of Sharia law. It is a science of distribution of a deceased person's legacy in accordance with the law and teaching of Sharia, which also known as *'Ilmu Mawarithh* or the science of inheritance. Derived from the Holy Al Quran, Allah SWT has preordained Islamic Inheritance law in a wise manner. Quantitatively, *Fara'id* has systemic effect to develop knowledge and quality of life, which is evident in the true hadith which states that *Fara'id* is half of total knowledge. Historical facts found that Islamic Law of inheritance was considered as the stimulus behind the improvement of Algebra (Azami *et al.*, 2011).

Fara'id and its function as one of the tools to create a proper economic order in a society are mostly discussed by the Muslim economics scholar in the late '60s up to the late '80s. Among the notable studies that show the economic role of *Fara'id* was Mannan (1970). He noticed that from the economic point of view *Fara'id* has an important role to bring women into the complex practices of economic activities, so men and women altogether can raise the wealth of the nation and society's welfare. In addition to that, he also came up with the evidence of anti-capitalistic in outlook of *Fara'id*, as it keeps the wealth distributed properly among the heirs, and not monopolized in one hand or concentrated in one place.

For the last two decades, studies about *Fara'id* mostly limited for technical application of it. Implication and philosophical reason of revealing Sharia rules in *Fara'id* for economic of the society is hardly to be found. However, Mawdudi (2011) in his economic studies' papers which was actually released in late 1960, (the 2011 publication was edited by Khurshid Ahmad) has provided the whole picture of *Fara'id* as one of the economic instrument taught by Allah in Al-Qur'an to achieve a proper economic order of a society, in addition to the principle of trust, property rights and ownership, and also *Zakah*. Thus in this paper, authors try to enrich the literature of *Fara'id* prior to its Islamic

economics implications by compiling the provided literatures with additional information in order to show that *Fara'id* plays important role as a tool to build a prosperous economic order. Furthermore, its scientific and beautiful harmonious set of rules safeguards the sustenance and equal re-distribution of wealth in a society.

2. Methodology

Mawdudi (2011), Khan (1989) and Mannan (1987), are among the qualitative studies that dominate the area of Islamic economics, which discuss the role of *Fara'id* in economics of a society. Qualitative research is a research which takes an interpretive, naturalistic approach to its subject matter (Denzin and Lincoln (1994) as quoted in Maxwell (1995)), hence it is intended to close the gap between science of discovery and implementation (Maxwell, 1995). Furthermore, according to Maxwell (2005), qualitative research are useful to achieve following goals; (1) understanding the *meaning* of events, situations, and actions which the phenomenon takes place⁶, (2) understanding how events, actions, and meanings are shaped by the unique circumstances, (3) identifying unanticipated phenomena and influences and generating new, “grounded” theories about the latter, and (4) understanding the processes by which events and actions take place.

The rationale behind the qualitative research in *Fara'id* is due to the nature of *Fara'id* which relates to many dimension of human life, in respect to social life and economic order of a society. Thus, qualitative research is deemed to be more appropriate for this field of discipline. Islamic Law of inheritance has been stated and fixed since its revelation up to the companions' era. Since *Fara'id* is religious rules in nature, thus its future much more depends on the Muslim community, (Mannan, 1987). However, the Muslims awareness in terms of *Fara'id* as a role for individual Muslims and society is still low. This condition has put the fact that the set rules of *Fara'id* can be adopted by non-

⁶ Understanding meaning is also known as the “interpretive” approach to social science as it is asserted by Bredo & Feinberg (1982); Geertz (1973); Rabinow & Sullivan (1979) as it is quoted in Maxwell (2005).

Muslim community with a little bit adjustment in order to create a proper economic order in a society becomes difficult to achieve. Thus, we find two gaps in order to develop the society by practicing *Fara'id* (i) the Muslim awareness toward the importance of it as religious obligation, and (ii) the science and implication of *Fara'id* as one of the disciplines for society, especially in the field of economics.

Furthermore, this study is exploratory in nature. It is because of information as for *Fara'id* that have been done in the past limited to the theoretical discussion, whereby the recent researches about *Fara'id* is more to the research of *Fara'id* as one of Muslim's obligatory and how to deal with it, as one tool in personal wealth and asset management and planning. Likewise, exploratory research suits the purpose of this study that is to increase the awareness for practicing *Fara'id* as an obligation for Muslims and as a tool to create a proper economic order in a society.

Literature reviews and information collected are employed in order to analyze and make further inferences. Literature reviews cover Islamic Law of Inheritance as one of the obligations of Muslims and its role as one of wealth re-distribution instruments in a society. Nevertheless, it is worth to note that the outcome of this study is a proposal on a general model. That is, there shall be no legal constraints from local authorities and regulators on the mechanism of the structure. Therefore, it is assumed that this model could be applied at any legal jurisdictions, thus legal perspective is not included in the discussion.

2.1. Data Collection Method

Data collected are mostly from books, journal references sources and internet sites. Maxwell (2005) places this type of data collection as theoretical categories, the coded data may be derived either from prior theory or from an inductively developed theory and usually represent the researcher's concepts.

3. Result and Discussion

3.1. Islamic Inheritance Law in Al Qur'an and Hadith; the Set Rules of Faraid

Islamic Inheritance law are derived from the primary sources of Islamic law, Al Quran and Sunnah of Prophet Muhammad (PBUH) in a detailed and comprehensive structure. In Arab custom i.e. during Pre-Islamic history, only men can enjoy inheritance excluding infants. One time, the widow of Aus bin Malik who was left by her husband with two daughters and one infant son, reported to Prophet Muhammad (PBUH) that her husband's cousins took away all the properties and left nothing for her and her children. After that through the revelation, Allah SWT commanded inheritance right for female as stated in Al Quran Annisa 4: 7.

“For men is a share of what the parents and close relatives leave, and for women is a share of what the parents and close relatives leave, be it little or much - an obligatory share”

This verse is *mujmal* in nature i.e. it does not discuss the beneficiaries' rights in detail. The other category is the *mufassal* verse or the al-mawarith verse i.e. Allah SWT provides detail explanation regarding the beneficiaries as well as the share portions for each of them. The revelation of An Nisa verse 11 and 12 completed the explanation of the inheritance rule in detail, after similar incident occurred to the widow of Sa'ad Ibn Rabi'. Furthermore, the sequence of revelation regarding inheritance rule is explained in the Al Quran chapter An Nisa 4 verse 176. According to the *mufassal* verses, the primary beneficiaries are parents, children, spouse and *Ikhwah*⁷ in some cases.

The share of children and parents are explained in the verse 11, spouse in verse 12 and the share of siblings in the second half of verse 12 and continued in verse 176 with following explanation.

⁷ Ikhwah can be refer to full and/or paternal and/or uterine brothers and sisters

3.1.1. Share of Children and Parents

“Allah thus directs you as regards your Children’s (inheritance): to the male, a share equal to that two females: If only daughters, two or more, their share is two-thirds of the inheritance; if only one, her share is a half. For parents, a sixth share of the inheritance to each, if the deceased left children; if no children, and the parents are the (only) heirs, the mother has a third; if the deceased Left brothers (or sisters) the mother has a sixth. (The distribution in all cases (’s) after the payment of legacies and debts. Ye know not whether your parents or your children are nearest to you in benefit. These are settled shares ordained by Allah; and Allah is All-knowing, Al-wise.” (An Nisa 4: 11)

Summary of the children’s and parents’ share are shown in the table below:

Table 1: the Children’s Share in Islamic Inheritance Law

Beneficiaries	Shares
Son(s) + daughter (s)	male having twice the share of female
Daughter only	1/2 share
Daughters (2 or above)	2/3 share

Table 2: the Parents’ Share in Islamic Inheritance Law

Beneficiaries	Share for each condition		
	Presence of male offspring	Absence of any male or female offspring	Presence of female offspring + <i>Ikhwah</i>
Father	1/6 share	<i>asabah</i> (residue)	1/6 + <i>asabah</i> (residue)
Mother	1/6 share	1/3	1/6

3.1.2. Share of Spouse and Siblings

“In what your wives leave, your share is a half, if they leave no child; but if they leave a child, ye get a fourth; after payment of legacies and debts. In what ye leave, their share is a fourth, if ye leave no child; but if ye leave a child, they get an eighth; after payment of legacies and debts. If the men or women whose inheritance is in question, has left neither ascendants nor descendants, but has left a brother or a sister,

each one of the two gets a sixth; but if more than two, they share in a third; after payment of legacies and debts; so that no loss is caused (to any one). Thus is it ordained by Allah; and Allah is All-knowing, Most Forbearing”(An Nisa 4: 12)

“They ask thee for a legal decision. Say: Allah directs (thus) about those who leave no descendants or ascendants as heirs. If it is a man that dies, leaving a sister but no child, she shall have half the inheritance: If (such a deceased was) a woman, who left no child, Her brother takes her inheritance: If there are two sisters, they shall have two-thirds of the inheritance (between them): if there are brothers and sisters, (they share), the male having twice the share of the female. Thus doth Allah make clear to you (His law), lest ye err. And Allah hath knowledge of all things. (An Nisa 4:176)

Al Quran explains share of spouse and siblings in Chapter An Nisa 4 Verse 12, with further explanation in verse 176 as stated above. From the part of verse 12 we can summarize that the share of spouse are as below:

Table 3: the Spouse’s Share in Islamic Inheritance Law

Beneficiaries	Share of each Conditions	
	Absence of male or female offspring	Presence of male or female offspring
Husband	1/2 share	1/4 share
Wife	1/4 share	1/8 share

There are two different conditions regarding the share of siblings, (i) when the men or women whose inheritance is in question has left neither ascendants nor descendants, but has left a brother or a sister or both, (ii) he or she leaves neither descendants nor ascendants as beneficiaries. Thus, the share of *Ikhwah* can be derived as below:

Table 4: Sibling’s Share in Islamic Inheritance Law-Condition I

Beneficiaries	Shares
Brother	1/6

Sister	1/6
Brothers + Sisters	they share in 1/3

Table 5: Sibling's Share in Islamic Inheritance Law-Condition II

Beneficiaries	Shares
Brother	<i>asabah</i> (residue)
Sister	$\frac{1}{2}$
Sisters	share in $\frac{2}{3}$
Brothers + Sisters	Residue; male having twice the share of female

3.2. Procedures in Distributing Inheritance

In all those verses, Allah SWT mentions “*after payment of legacies and debt*” following after each sequence of beneficiaries’ share, i.e. twice in verse 11 and three times in verse 12. This command can be interpreted as an emphasis from Allah SWT about the importance of procedure and order in the process of inheritance distribution. The distribution of inheritance can be made only after the fulfillment of following deceased liabilities:

1. The first right: enshrouding and burial

This is the first order to be taken from inheritance in moderate amount. This amount spent on cloth and burial expenses, such as soap, camphor, the shroud, the wage of washer, land purchasing for deceased grave if the free plot is not available, and so forth.

2. The second right: payment of debts

The debt mentioned in the verses refers and encompasses both the debt to people and towards Allah e.g. zakat, *shadaqatu-l fitr*, Hajj, fulfillment of vows, and so forth. The beneficiaries should complete those outstanding debts on behalf of the deceased person as stated in following Hadith, as reported from Aisha (shahih bukhari, shahih muslim): “*Whoever dies and has any fast outstanding, his heir should observe those fasts on behalf of him*”

Hadith shahih Bukhari-muslim reported from Ibnu Abbas, narrated by Salamah bin al Akwa also stresses the importance of paying debt; as the Prophet (PBUH), refused to perform funeral cited over the deceased person who has debt unless someone stood as surety to discharge them.

3. The third right: testamentary freedom over one third

The deceased is allowed to transfer not more than one third from his/her belongings to whom he pleases other than beneficiaries determined in Al-Qur'an through testamentary before his/her death. He/she even can perform his/her will for *non-muslims*, for charity or establishing the *waqf* fund. The number of one third is derived from Hadith of shahih Muslim reported by Amir bin Sa'd, on the authority of his father Sa'd bin Abi Waqqas.

4. The fourth right: distribution of remaining two-thirds

This distribution follows Islamic inheritance law as per clearly stated in previous verses.

Those beneficiaries mentioned in Al Quran are known as obligatory and primary heirs/beneficiaries or *ashabul faraid* (plural) / *zawil furood* (singular). However, along with all those primary beneficiaries, there are still other successions that are eligible to receive the remaining inheritance after the fulfillment of rights of primary beneficiaries or in case of absence of primary beneficiaries with regards to certain conditions stated by Sharia. The order of estate distribution and succession in Islamic Law of inheritance after the fulfillment of deceased debt, and testamentary is explained in following table:

Table 6: Sharia order of succession, source: Azami et. al. (2011)

Order of Succession	Share of Estate	Heir (Beneficiary)	Description
1	Fixed shares	<i>Ashabul Fara'id or Zawil Furood</i>	Obligatory/primary heirs
2	Residue (all if there are no obligatory heirs)	<i>Asabah:</i> a) <i>Asabah nasaby</i> b) <i>Asabah sababy</i>	Residuary beneficiaries: a) By blood relation; and

			b) By special relationship
3	Residue	<i>Ashabul fara'id</i>	If no <i>asabat</i> (residuary beneficiaries) then the primary heirs receive the entire estate (<i>radd</i>)
4	Residue	<i>Zawil arham</i>	Distant kindred
5	Residue	<i>Mawlal muwalat</i>	Successor by contract
6	Residue	<i>Al-muqirun lahu bin-nasab</i>	Acknowledge kinsmen
7	Residue	<i>Al musa lahu</i>	Those heirs who inherited the disposable third
8	Residue	<i>Bayt-ul Mal</i>	Treasury of an Islamic Government

Ashabul Fara'id or *Zawil Furood*. First and foremost the net estate or property of the deceased person must be distributed among the heirs/beneficiaries – whose shares have been prescribed in the Sharia. The next successor is *Asabat* (plural), *asaba* (singular). There are two types of *asab* which are *asaba nasaby* (blood relative) and *asaba sababy* (by special reason) such as *mawlaq 'itaq* (Master of freed slave). *Asabat* receive the residue or remains of the estate after *ashabul fara'id* received their share. In the absence of *ashabul fara'id*, the *asabat* will inherit entire estate.

In the absence of *Asaba nasaby* and *sababy*, *zawil arham* (distant kindred) those are blood relative to the deceased who are neither *ashabul furood*, nor *asaba nasaby*, will inherit. If there are no *zawil arham*, *mawlal muwalat* (successor by contract) will receive the share of inheritance. If above mentioned category are not available, then the estate will be deferred to *al muqirun lahu bin nasab* (acknowledged kinsmen), a person to whom the deceased ratified a relationship, for example he is my uncle or my brother and until the day of his death he does not retract from his statement.

In the absence of all mentioned category of successors, the estate will be deferred to *al musa lahu*, the people to whom the deceased made bequest for more than a third of deceased estate. Thus in the absence of those previous categories, *al musa lahu* will inherit in its entirety. Lastly, if none of the category that already mentioned above available, then the estate of the deceased will be given to *Bayt-ul Mal*. Prior to the beneficiaries mentioned in Al Quran Chapter 4 Annisa verses 11, 12, and 176, we can see

that there eligible people receive inheritance of the deceased prior to their special relationship with the deceased, i.e. blood relationship, marriage, and the last one that was not mentioned in those verses is *Mawlaq itaq* (master of a freed slave).

In some conditions the beneficiaries might not inherit from the deceased i.e. (i) if the beneficiary is a slave, which does not have right to possess any wealth which unable him/her to receive the transfer of ownership from the deceased belonging, (ii) killer/murderer cannot inherit anything from his murdered relatives as Prophet (PBUH) said : *‘The Killer does not inherit’*, (iii) difference of religion; a Muslim will not inherit from different religion relatives, and vice versa, according to the hadith of the Prophet (PBUH): *“A Muslim does not inherit from a non-believer and neither a non-believer from a Muslim”* (Shahih Bukhari). However Sharia allows a Muslim can make a bequest for a *non-muslim* and vice versa, (iv) Unborn, illegitimate and adopted children; the illegitimate children do not inherit from their father and vice versa, even the children can inherit from the mother and mother family and vice versa and adopted children only inherit by the will or testamentary before the death, (v) *khunta al mushkal*⁸ or the hermaphrodite, their share will be specifically calculated. According to Shafi’i and Hanbali School of law, the hermaphrodite get half of combined shares of male and female i.e. the average of combination male and female share in their position.

3.3. Economic Implications of Islamic Law of Inheritance

3.3.1. Empowering Women to Involve in Economic Activities

In Islam there is no gender bias between men and women, which is also evidenced in Islamic Laws of Inheritance. Equality is not equal to sameness or identical, just like people are created equals to each other but not identical. There is no space to

⁸ *khunta al mushkal* refer to the individual who is the gender cannot be determined, whether male or female. The hermaphrodite who is dominance to one of the gender known as *khunta ghairu mushkal*, hence there would be no any issue regarding their share in Faraid, as they are justified according to their dominance gender. If the hermaphrodite dominance to male, then he is justified as male in all aspect of social life including their share of inheritance in Faraid, and so as the hermaphrodite who is dominance to gender of female.

assess that men is superior to women. Islam gives women equal rights, i.e. Islam takes women into consideration and recognized them as independent. Islam acknowledge women to wipe away the perception that women is less important than men because the rights of women are not identically as men. The following revelation from Al Quran proves that women has the equal position as men do.

1. The equality of women and men clearly stated in the sight of Allah SWT in terms of the responsibilities and the right. The Holy Al Quran states:

“Whoever works righteousness, man or woman, and has faith, verily to him will We give a new life that is good and pure, and We will bestow on such their reward according to the their actions.” (An Nahl 16:97)

2. In the procreation of humankind, women plays important roles as a full equal partner of men.

“O mankind! Verily We have created you from a single (pair) of a male and a female, and made you into nations and tribes that you may know each other...” (Al Hujuraat 49:13)

“O mankind! Reverence your Guardian-Lord, who created you from a single person, created, of like nature, His mate, and from them twain scattered (like seeds) countless men and women...” (An Nisaa 4: 1)

3. In receiving reward for every deed, women have equality with men handling common and personal responsibilities. Women is neither deviant nor inferior from men, in accordance with human nature. Allah SWT says:

“For Muslim men and women,- for believing men and women, for devout men and women, for true men and women, for men and women who are patient and constant, for men and women who humble themselves, for men and women who give in Charity, for men and women who fast (and deny themselves), for men and women who guard

their chastity, and for men and women who engage much in Allah's praise,- for them has Allah prepared forgiveness and great reward.”(Al Ahzab 33: 35)

4. Woman has equal rights to enterprise, to contract, to possess and to earn as independent human being in Islam. She will get a penalty and compensations equal to man in her position.

“O ye who believe! the law of equality is prescribed to you in cases of murder: the free for the free, the slave for the slave, the woman for the woman...”(Al Baqarah 2: 178)

Islam has recognizes woman to be given a share of inheritance, despite of acknowledgment that a woman is recognized as independent human being who is treated as an essential part of humanity survival.

“And women shall have rights similar to the rights against them, according to what is equitable; but man have a degree (of advantage as in some cases of inheritance) over them”(Al Baqarah 2:228)

Degree of advantage for men stated in above verse does not recognize dominancy of men over women, nor give a tittle of supremacy. It's a statement for additional responsibility that corresponding with men and as compensation for his unlimited obligations. The extra responsibility of men over women are in the sense of economic aspect, but not in character and humanity. Through *Faraid*, Islam empowers women to involve in complex activities of economics, and together with men develop the social welfare of the society. God knows best what is good for women and what is good for men in exact way.

3.3.2. *Protecting The Property Rights*

Property right in Islam is delineated, as the absolute owner of this universe is only Allah SWT, stated in Al Quran Al Baqarah verse 255; *“His are all things in the*

heavens and on earth”. Islamic principles emphasize that land is a sacred trust for human being and should be used for continuous production purpose. Another conditional requirement for property right in Islam is that the land neither be used wastefully nor exploitatively, or in a way that will deprive others of their justly acquired property, as stated below:

“And do not eat up your property among yourselves for vanities, nor use it as bait for the judges, with intent that ye may eat up wrongfully and knowingly a little of (other) people's property.”(Al Baqarah 2: 188)

Property right in Islam could be divided into three categories; public, state and private (Sait & Lin, 2006). Public property could be converted to the private property, subject to the retrieval effort of the individual, e.g. fish caught from the sea, the animal hunted in the forest, and so on. Hence, state exercises supervision to ensure that there's no exploitation towards the public property. Individual right in Islam is ratified to the extent that this ratification ensures the right of this property to its possessor. Some Islamic rules that safeguard the right of the possessor upon his property are prohibition of robbery, stealing, cheating. The Islamic's punishment for those crimes indicate the sanctity of the right and prevent it for being infringed. This rule lays down the legal restriction which provides the penitentiary requisition to prevent men craving the property which are not belong to them.

Upon the same basis, it lays down other outcomes i.e. the right to dispose personal property by sale, contract, rental, mortgage, or contract by bequest or legacy. In case of Faraid, in addition to rules related to the will and bequest, Islam also guarantee the distribution of a man after his death are transferred to the right party, with a justice share portion.

3.3.3. *Safeguarding the Justice in Wealth Re-distribution*

The redistribution of wealth is important subjects concerning the man's economic life. In Islam the re-distribution of wealth can be done by Zakat and Faraid. The nature of wealth defines in Islamic code of law which is absolute ownership of everything belongs to Allah who has created everything, including wealth in its different forms that are possessed by people (Sadeq, 2002). Further the set of rules of Faraid which safeguards the justice in wealth redistribution are verified by the objects of re-distribution system in Islam. The system for the distribution of wealth laid down by Islam visualized three objects, (Shafi, 1979) as follow:

a. Establishment of a practicable system of economy

An indication for this principle can be found in the Al Quran in the following verse:

“We have distributed their livelihood among them in worldly life, and have raised some above others in the matter of social degrees, so that some of them may utilize the services of others in their work.” (Az Zukhruf 43: 32)

The economic system without any force allows every individual to play the role in a normal way with regards to the choice, liking and ability. This is the first object of distribution of wealth. Hence, economic activity will be more useful and fully satisfying. It can be secured by doing the harmonization between the employee and the employer, the proper utilization, as well as the natural movement of supply and demand that force the market. In this sense, Islam admits all these factors in economic life.

b. Enabling everyone to get what is rightfully due to him

In Islam, there are different criteria and concept from what it is in another economic system. Islamic wealth distribution system assures everyone to get his/her rights. In materialistic economic system, the only way to acquire right is by directly

participating in production. Only those who have direct contribution in producing wealth entitled the share in the wealth, no one else count. Says the Holy Al Quran:

“In their wealth there is a known right for those who ask for it and those who have need for it.” (Al Ma’aarij 70: 24-25)

Islam, through its principles; (i) all the wealth belongs to Allah SWT and (ii) Allah who sets up the rules how to use the wealth makes obligation to help the others such as the poor, helpless, the needy, the paupers and the destitute. Hence, Islam proposes to do distribution of wealth in such a proper manner so that all those people who are taking part in the production of wealth receive their share.

c. Eradicating the concentration of wealth

Preventing concentration of wealth in few hands is the third objective of distribution of wealth in Islam. The wealth is supposed to circulate into the wider society to eliminate the gap between the poor and the rich. It is in line with the view of Islam in monopoly, which is not permitted to be done by group or any individuals. The purpose is to ensure that every member of society has an equal right to get benefit from the economic environment. *“So that this wealth should not become confined only to the rich amongst you”* (Al Hasyr 59:7)

3.3.4. Encouraging Economic Growth and Creates Proper economic Order

The Islamic teaching derived from the Holy Al Quran and Hadith provides the clues to adopt an Islamic-oriented growth strategy which can help powerfully in realizing the Islamic vision of a just socio-economic order. Islamic inheritance law (*Faraid*) is a tool in achieving a wide distribution of wealth to reach a just socio-economic society. The importance of learning and teaching of *Faraid* stated in the hadith of the Prophet (PBUH): *“Learn Faraid and teach them to people for it half of know knowledge and it will be forgotten and the first to be taken up from my community.”*

According to *Faraid* set of rules, inheritance distribution covers four generations of family from grandparents, parents, children, and grandchildren therefore it can influence society in economic aspect from rising equality of woman right, protection of property right, and the ultimate purpose to preserve financial welfare through redistribution of wealth and social justice. Before Islam came, women are not recognized as beneficiaries of the deceased. After revelation of An Nisa (4) verse 7, women have the right to inherit, as men do with the calculation according to Sharia rule. The different portion of women and men in Islamic inheritance law does not indicate the superiority of men status in Islam because money or asset is not the standard of status in Islam. In general, woman's share is one-half the man's share. The variances in inheritance right between men and women are side by side with financial responsibilities according to Islamic law for women and men.

Under the Islamic system, the obligation of maintaining the family (children, wives, parents, and siblings) always rest upon the husband, even the personal income of wife is larger than her husband. Hence, the double share of man comparing to woman in the same degree of relationship with man is provided in order to fulfill man's responsibility to his family. Far from the discrimination prejudice of the woman beneficiaries, this distribution rules actually place woman in favorable position as compared to man beneficiaries, as woman has no financial obligation to the family. For example the share of husband and wife which mentioned in the Holy Quran Chapter 4 An Nisa verse 12, husband receive one-fourth ($\frac{1}{4}$) in the presence of male and female offspring, and wives get eighth ($\frac{1}{8}$). Even the share of man is bigger in amount, but in the end, the received inheritance should be used to maintain the family which might take over all his belongings, whereas the wives' are free from this kind of responsibility and as in the absence of father, the children's uncle should involve in taking care about them.

From the economic point of view we can see that in Islam women have their own identity. Prior to *Fara'id* Islam in such way provide them financial aid through the share from inheritance so that women can use it as capital. Implicitly, Islam opens the chance for women to spare their time and involve to any profession, business or trade, taking part in increasing the society wealth. Thus, *Fara'id* with its fixed, scientific and beautifully harmonious system harnessed men women power to produce value, increase national wealth and the society welfare.

From legal perspective, the benefit of predetermined shares is the lenience to perceive potential benefits to a scheme of specified shares. In contrast to the conventional inheritance system this provides greater apparent legal freedom to the individual to control devolution of his/her property upon death (Un Habitat, 2005). Thus, the predetermined share minimizes the manipulation from the one who has bad intention to the family.

Fara'id guarantees the transfer of property right from the deceased to whom deserves it. As mentioned above, the share only can be divided to the predetermined beneficiaries and more so, it is performed after fulfillment the liabilities such as burial expenses, debts, as well as distributing the will, so the property of the deceased is protected.

Moreover, in the absence of the inheritance the beneficiaries should fulfill the deceased debt and the liability of the deceased to Allah or to the others. The deceased has the right to share his own wealth to the party whom he/she wish to have his/her property, except for the one who is categorized as beneficiaries, because the portion of beneficiaries clearly determined in Islamic law. The will cannot exceed one-third of the total wealth, therefore the beneficiaries' rights of shares will not be violated by the deceased.

Under Islamic Law of inheritance, a person may not dispose more than one-third of his property by testamentary directions. The Islamic law of inheritance is anti-

capitalistic and monopolistic in outlook. While he was alive he may dispose of his property freely, subjects to moral obligations, but once he enters upon a stage of illness which may lead him to the death, he is only allowed to provide legacies for friends, charity or whoever he wishes, even for *non-muslim*, within one-third of his total inheritance after paying his debt and other liabilities.

Islamic economic does not only concern with the factor of production and issues related to supply and demand but also the ethical perspective related to these matters. In the Holy Al Quran, Allah SWT teaches us the fundamental of truth as the basic principle of the economic man in order to bring home to humankind, the parameter of private ownership that individual ownership right is under the Supreme ownership of Allah, as well as the concept of monasticism or moderation and balance that Allah created the bounties of this world for the benefit of humankind, including the prohibition of stinginess and hoarding. Furthermore, Allah guides us in collection and distribution of *Zakah* that belong to *asnafu 'tsamaniyah*, individual who deserve to the *Zakah* which determined by Allah at Taubah 9 verse 60 i.e. the poor, the needy, those employed to administer the (funds), those whose hearts have been (recently) reconciled (to Truth), those in bondage and in debt, in the cause of Allah, and for the wayfarer. Hence *Faraid* is one of those Al Qur'an economic teaching that guides the human kind to create the proper economic system.

There are three objectives of the distribution of wealth that has been discussed in previous section are (i) Establishment of a practicable system of economy, (ii) Enabling everyone to get what is rightfully due to him (iii) Eradicating the concentration of wealth. All of those listed objectives distinguish Islamic economy from socialism and capitalism. Socialism has different perspective in the first and the second objects, meanwhile capitalism has different point of view for the second and the third objective. In capitalist system, wealth is distributed only to those who are taking part in producing wealth, which

are known as factors of production: capital, labour, land, and entrepreneurship. The distribution of share is done through interest for capital owner, wages for labour, rent for land owner, and residual amount as profit for entrepreneur. Contrary with capitalism, in socialist economy capital and land are owned by the state, so interest and rent is not appropriate in this kind of system. The state plays the role as entrepreneur, not individual. The only factor remains under this system is labour and then the wealth will flow in the form of wages.

Islamic system is different from both systems whereby there are two categories of people who have the right to receive the wealth. The first category is those who directly involve in production process and receive the share of wealth as consequences. The other group is those who do not directly take part in the production process but has the right to enjoy the share of wealth.

Comparing to capitalist economy, Islamic system only recognizes three production factors which are capital, land and labour. In the form of capital, instead of receiving interest as share of wealth, the Islamic system will share the profit. In socialist economy, the concentration of wealth will be huge since all are controlled by the state while Islam encourages wealth distribution for the society as wide as possible.

In the case of *Fara'id*, the wealth is distributed to four generation of the family. It means that the more generations who get the opportunities to enter the production process and to involve in economic process of the society, the better. In micro perspective of conventional economy, people who receive income will spend it for consumption and saving, and get disposable income that can be used for investment. In Islamic economy, it adds *Zakah* as compulsory (and *Sadaqah* or other charity) as component to spend the income. The equation as follows:

$$Yd = Y - C - S \quad (1) \text{ Conventional Economy}$$

$$Yd = Y - C - S - Z \quad (2) \text{ Islamic Economy}$$

Y_d = Disposable Income; Y = Income; C = Consumption; S = Saving; Z = *Zakah* (and charity)

In the whole process of the economy, the economic activity will create the cycle from the production activity to investment activity that can be illustrated in following figure:

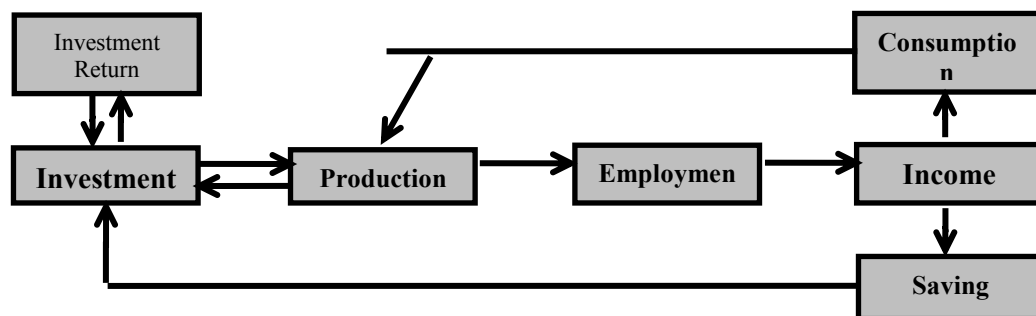


Figure 1 Economic Activities

Economic activities in general follow the flow of above diagram, starting with production activity that creates employment and also can do investment directly, and then the employees receive income which can be used for consumption and saving purpose. Saving will lead to the investment, while consumption will go back to production activity. Lastly, the investment activity can place the fund into the production activity as well. By doing investment, the owner of fund will receive the investment return, and in this sense Islamic system is different from conventional system. While conventional economy offers interest as the return, Islamic economy provides rate of return from profit sharing through investment in the real sector.

Fara'id as a wealth distribution tool will provide wider scope of distributing wealth. When more people have the share of the wealth, more people will participate in contributing for production activities. Higher increase in production activities will lead to higher employment rate and also more income distributed in the society for consumption and saving. The cycle continues to investment activity that will be going back to

production activity. From the macroeconomic perspective the redistribution of wealth permanently and systematically ensures doing away with the concentration of wealth in every generation at the most micro level possible. *Faraid* plays the role to make sure that this economic activity continuously growing from time to time. When *Faraid* implementation is going effectively along with *Zakah*, as wealth distribution tool then the wealth equality will be achieved. Hence, when wealth distribution become equal, the income distribution is also expected to be equal, by then this condition will lead to just socio-economic society.

4. Conclusion and Recommendation

From the discussion above, specifically from the economic point of view, *Fara'id* plays a great role in managing the redistribution of wealth after the deceased which if we apply, it will decrease the degree of income inequality that occurred in our current economic system, protect the property right, takes women to the economic activities and as whole *Fara'id* encourages the economic growth and creates proper economic order in a society.

Further research regarding to this field will encourage more understanding in application of *Fara'id*, not just as part of rule compliance as Muslim but also as a tool for redistribution of wealth in addition to *zakat* and *waqf*. Thus, the proper practice of *Fara'id* will affect the whole society especially their economic growth.

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